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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/730,380	12/05/2000	Ken Liljegren	5432/01004	7399

7590 06/19/2002

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EXAMINER

AULAKH, CHARANJIT

ART UNIT	PAPER NUMBER
1625	45

DATE MAILED: 06/19/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. <b>09/730,380</b>	Applicant(s) <b>Liljegren, K. et al.</b>	
	Examiner <b>CHARANJIT AULAKH</b>	Art Unit <b>1625</b>	
	<i>-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --</i>		
<b>Period for Reply</b> A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. <ul style="list-style-type: none"> <li>- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.</li> <li>- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.</li> <li>- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.</li> <li>- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).</li> <li>- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).</li> </ul>			
<b>Status</b> <p>1) <input checked="" type="checkbox"/> Responsive to communication(s) filed on <u>Apr 19, 2002</u></p> <p>2a) <input type="checkbox"/> This action is FINAL.      2b) <input checked="" type="checkbox"/> This action is non-final.</p> <p>3) <input type="checkbox"/> Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i>, 1935 C.D. 11; 453 O.G. 213.</p>			
<b>Disposition of Claims</b> <p>4) <input checked="" type="checkbox"/> Claim(s) <u>1, 4-10, 12, 13, 16-33, 36-59, and 61</u> is/are pending in the application.</p> <p>4a) Of the above, claim(s) _____ is/are withdrawn from consideration.</p> <p>5) <input type="checkbox"/> Claim(s) _____ is/are allowed.</p> <p>6) <input checked="" type="checkbox"/> Claim(s) <u>1, 4-10, 12, 13, 16-33, 36-59, and 61</u> is/are rejected.</p> <p>7) <input type="checkbox"/> Claim(s) _____ is/are objected to.</p> <p>8) <input type="checkbox"/> Claims _____ are subject to restriction and/or election requirement.</p>			
<b>Application Papers</b> <p>9) <input type="checkbox"/> The specification is objected to by the Examiner.</p> <p>10) <input type="checkbox"/> The drawing(s) filed on _____ is/are a) <input type="checkbox"/> accepted or b) <input type="checkbox"/> objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).</p> <p>11) <input type="checkbox"/> The proposed drawing correction filed on _____ is: a) <input type="checkbox"/> approved b) <input type="checkbox"/> disapproved by the Examiner. If approved, corrected drawings are required in reply to this Office action.</p> <p>12) <input type="checkbox"/> The oath or declaration is objected to by the Examiner.</p>			
<b>Priority under 35 U.S.C. §§ 119 and 120</b> <p>13) <input checked="" type="checkbox"/> Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).</p> <p>a) <input checked="" type="checkbox"/> All b) <input type="checkbox"/> Some* c) <input type="checkbox"/> None of:</p> <ol style="list-style-type: none"> <li>1. <input checked="" type="checkbox"/> Certified copies of the priority documents have been received.</li> <li>2. <input type="checkbox"/> Certified copies of the priority documents have been received in Application No. _____.</li> <li>3. <input type="checkbox"/> Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).</li> </ol> <p>*See the attached detailed Office action for a list of the certified copies not received.</p> <p>14) <input type="checkbox"/> Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).</p> <p>a) <input type="checkbox"/> The translation of the foreign language provisional application has been received.</p> <p>15) <input type="checkbox"/> Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.</p>			
<b>Attachment(s)</b> <p>1) <input type="checkbox"/> Notice of References Cited (PTO-892)</p> <p>2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</p> <p>3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s). <u>1</u></p> <p>4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____</p> <p>5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</p> <p>6) <input type="checkbox"/> Other: _____</p>			

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### **DETAILED ACTION**

1. According to paper no. 11 filed on April 19, 2002, the applicants have filed RCE of application S.No. 09/730,380.
2. According to paper no. 12 filed on April 19, 2002, the applicants have canceled claims 2, 3, 11, 14, 15, 34, 35 and 60 and furthermore, have amended claims 1, 4-10, 12, 13, 20, 22, 23, 30, 33, 36-43, 55 and 56.
3. Claims 1, 4-10, 12, 13, 16-33, 36-59 and 61 are now pending in the application.

#### *Response to Arguments*

4. Applicant's arguments filed on April 19, 2002 ( paper no. 12 ) have been fully considered but they are not persuasive regarding prior art and obviousness rejections. The examiner agrees with the applicants arguments that the cited prior art references ( patents 590 and 884 ) do not mention the median particle size of the crystals and furthermore, the applicants have submitted a declaration ( paper no. 13 ) by Hans Peterson showing that the particle size of crystals of citalopram was much smaller in the patents 590 and 884 ( 6-14  $\mu$ m ) as compared to at least 40  $\mu$ m in the instant application. However, the applicants did not address the unexpected result (beneficial effect ) of their larger particle size crystals as compared to the smaller particle size crystals of the prior art patents. The applicants need to submit a declaration showing unexpected beneficial effects of their tablets with larger particle size crystals as compared to the tablets of smaller particle size crystals following their oral administration.

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***Conclusion***

5. The prior art rejections under 35 U.S.C. 102(b) and obviousness rejections under 35 U.S.C. 103(a) are maintained for the reasons of record.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chana Aulakh whose telephone number is (703) 305-4482. The examiner can normally be reached on "Monday-Thursday" from 7:30 A.M. to 6:00 P.M.

If the attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Alan Rotman, can be reached on (703) 308-4698. The fax number for this Group is (703) 308-4556.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group's receptionist whose telephone number is (703) 308-1235.

  
CHARANJIT S. AULAKH

PRIMARY EXAMINER